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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/21/2003

Jean Paul Craze

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06/13/2008

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/719,438	Applicant(s) CRAZE, JEAN PAUL	
	Examiner CHARLES N. GREENHUT	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/25/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10 and 12-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 and 12-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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I. Claim Objections

1. In claim 1, “the engaging mechanism” should read - - the engagement mechanism - - for consistency.

II. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. The terms "relatively rapid" in claim 19 and “rapid” in claim 22 are relative terms which renders the claim indefinite. The term "rapid" is a term that is based upon the opinion of the end user and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

1.2. The phrase “facilitating rapid connection and decoupling” in claim 19 depends upon the skill level of the end user and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

III. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-5, 10, 12-13, 15-18, and 25-26 is/are rejected under 35 U.S.C. 102(b) as being anticipated by NOLASCO (US 6,139,250 A).

1.1. With respect to claim 1, 12, and 25-26 NOLASCO discloses a transverse cross bar (12d), connected to a boom (11), two receivers (16)/(17) having engagement mechanism (e.g., a bore) facilitating connection and decoupling from the cross bar (12d), connected to opposing ends of the cross bar (12d), wheel support member (20)/(21) having an elongated arm (20a)/(21a), and a wheel retainer (22)/(23), and hydraulic cylinders driving horizontal movement (27)/(28) each connected to wheel supports (20/21), communicating with rods (27a/28a) removably attached to the receivers (16)/(17) using removable pivot means comprising a locking pin at a plate (pin accepting protrusion no numeral - Fig. 5), the wheel lift capable of being decoupled (via pin) from the power mechanisms (27/28), and cross bar (12d) using the pivot means (pin) and engaging mechanism (sliding bore).

1.2. With respect to claims 2-5, NOLASCO additionally discloses the apparatus is a self-loading wheel lift, and may be rapidly disassembled to permit conversion to an alternate towing apparatus such as a tow bar with a fork.

1.3. With respect to claims 10 NOLASCO additionally discloses rods having apertures (shown not labeled Fig. 3).

1.4. With respect to claims 13, 15-18, NOLASCO additionally discloses the wheel support members comprising an L-arm (20/21) pivotally attached to receivers (at 24/25) by parallel plates (18)/(19), the boom extensible and retractable, hydraulic power and movable ends (16)/(17).

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IV. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 6-7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A) in view of KIEFER (US 5,575,606 A).

1.1. With respect to claims 6-7, NOLASCO does not elaborate on the coupling mechanisms. The cam lock including a rotatable handle and spring loaded plunger pin that applicant uses for rapid connection and disconnection is well known and commonly used in the art to facilitate rapid connection and disconnection of components as illustrated by KIEFER (Figs. 5A-B). It would have been obvious to one of ordinary skill in the art to modify NOLASCO with the mechanism of KIEFER in order to facilitate connection and disconnection.

2. Claim(s) 14 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A).

2.1. With respect to claim 14, NOLASCO is silent as to what holds the pivot pin in place. Retaining screws are well known and commonly used in the art to hold things in place. It would have been obvious to one of ordinary skill in the art to use a retaining screw in order to hold the pivot pin of NOLASCO in place.

3. Claim(s) 19-24 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A) in view of PETERSON (US 4,384,817 A).

3.1. With respect to claim 19-24, NOLASCO discloses a transverse cross bar (12d), connected to a boom (11), two receivers (16)/(17) connected to opposing ends of the cross bar (12d), wheel support member (20)/(21) having an elongated arm (20a)/(21a), and a wheel retainer (22)/(23), and powering means driving horizontal movement (27)/(28) removably attached to the receivers using only removable pivot means (pin). NOLASCO fails to teach rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus. PETERSON teaches rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus (Figs. 9-10). It would have been obvious to one of ordinary skill in the art to modify NOLASCO with the detach and replace step of PETERSON in order to accommodate vehicles requiring a sling for towing and vehicles requiring handling by engaging an opposed pair of wheels. NOLASCO additionally discloses hydraulic cylinders (27)/(28) communicating with rods having apertures removably attached to receivers, and a self loading wheel lift. NOLASCO additionally discloses in discussion of prior art that fork attachments are known in the art (Col. 2 Li. 57). It would have been obvious to one of ordinary skill in the art to use a frame fork attachment in order to lift a vehicle by its frame.

V. Response to Applicant's Arguments

Applicant's arguments and affidavits entered 3/25/08 have been fully considered.

1. Applicant argues that use of the term, "rapid" in claims 19 and 22 does not render the claims indefinite under 35 USC 112 2nd paragraph. This argument is has been previously addressed and is not persuasive.

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2. Applicant argues that by way of the present amendment claim 1 distinguishes over NOLASCO. This argument is not persuasive. Applicant defines the apparatus in terms of its intended use rather than its structure. In order to patentably distinguish an apparatus claim over the prior art the claim terms must result in a structural difference over the prior art. If an end user would be capable of manipulating the prior art structure to achieve the claimed result, the prior art structure meets the claim.
3. Applicant argues that by way of the present amendment claim 19 distinguishes over NOLASCO in view of PETERSON. This argument is not persuasive. Applicant defines the process with relative terminology that is open to interpretation.
4. Applicant argues that claims 6-7 can not be rendered obvious by NOLASCO in view of KIEFER because NOLASCO teaches away from the proposed modification to include a cam lock. This argument is not persuasive. This argument apparently results from an incorrect interpretation of NOLASCO. Applicant incorrectly alleges that the welded end plates and springs must be removed in order to remove the receivers from the crossbar (pg. 9 & 11) concluding therefore that NOLASCO cannot employ a cam lock. Removal of the terminal end nut (not enumerated) outside of those welded plates, along with the cylinder pin, would suffice to decouple the receivers from the crossbar. NOLASCO therefore does not teach away from providing an additional positive locking means to secure the receivers to the crossbar.
5. Applicant argues that claim 19 can not be rendered obvious by NOLASCO in view of PETERSON because PETERSON is non-analogous. This argument is not persuasive. Applicants premise that PETERSON does not employ hydraulic cylinders for effectuating

horizontal movement of the towing apparatus, does not support the conclusion that PETERSON is therefore non-analogous. Firstly, PETERSON relates to the same field of endeavor and employs a structurally similar device to effectuate that purpose. Secondly, applicant points to a feature unrelated to that for which the PETERSON reference is supplied to teach. PETERSON may properly be considered analogous art for purposes of teaching employing alternate towing apparatus.

VI. Conclusion

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

/C. N. G./

Examiner, Art Unit 3652

/Saúl J. Rodríguez/

Supervisory Patent Examiner, Art Unit 3652